

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In: Edward Litwinski, Rahmatollah F. Toosky
Appl. No.: 10/631,906
Filed: July 31, 2003
For: METHOD OF MANUFACTURING
RIVETS HAVING HIGH STRENGTH
AND FORMABILITY

Confirmation No.: 9631
Group Art Unit: 1725
Examiner: Lynne Edmondson

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

August 18, 2004

DECLARATION UNDER 37 C.F.R. § 1.132

Sir:

I, Edward Litwinski, hereby declare and state that:

1. I am one of the inventors of the claimed invention of the above-identified U.S. Patent Application Serial No. 10/145,342. I am currently employed by The Boeing Company, the assignee of the above-identified application, and have been at all times during and following the invention described by the above-identified application.
2. I have reviewed the Office Action for the above identified application dated July 12, 2004 and U.S. Patent Application Publication No. 2001/0052178 to Luhm, including paragraph 85, thereof, which describes a rivet material for which "the grain size would preferably be 6 or finer in accordance with specification ASTM E 112."
3. I am familiar with ASTM E 112 and understand that the chart attached as Exhibit A, titled "FIG. 7 Chart for Direct Determination of Mean Intercept Distance from Intercept Count on 500-mm Test Pattern," from page 1169 of ASTM E 112, provides a correlation between the grain size of a material measured in microns and the ASTM Grain Size Number.

4. A material with an ASTM Grain Size Number of 6 or finer, such as is described in U.S. Patent Application Publication No. 2001/0052178, would have a grain size of about 40 microns or less. This correlation may be seen in the chart attached as Exhibit A by identifying the ASTM Grain Size Number 6 on the vertical axis in the middle of the chart and finding the corresponding measurement (mm) on the vertical axis on the right side of the chart.

5. A grain size of 5 microns or less is significantly finer than a grain size of ASTM Grain Size Number 6. Further, a material with a grain size of 5 microns or less would likely exhibit at least some material properties that are significantly different than the material properties of a material with ASTM Grain Size Number 6 as well as many materials with a grain size that is finer than ASTM Grain Size Number 6 but not as fine as 5 microns.

6. Although the range of grain size described in U.S. Patent Application Publication No. 2001/0052178 (i.e., "6 or finer in accordance with specification ASTM E 112") would include the range recited in Claim 22 of my above-identified patent application (i.e., "a grain size less than about 5 microns"), the range recited in Claim 22 is not disclosed in U.S. Patent Application Publication No. 2001/0052178 with any specificity, and the results for a material with the grain size recited in Claim 22 would not be characteristic for the materials generally contained in the range disclosed in U.S. Patent Application Publication No. 2001/0052178. Moreover, the range disclosed in U.S. Patent Application Publication No. 2001/0052178 would not make obvious the range of "less than about 5 microns" to a person of ordinary skill in the art.

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Page 3 of 3

7. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application of any patent issued thereon.


Edward Litwinski

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